

INITIATIVE 716

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 716 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to health care access; amending RCW 41.05.055 and
2 41.05.011; reenacting and amending RCW 48.43.005; adding a new section
3 to chapter 48.43 RCW; adding new sections to chapter 41.05 RCW; adding
4 new sections to chapter 74.09 RCW; adding a new section to chapter
5 70.47 RCW; adding new sections to chapter 43.135 RCW; creating new
6 sections; repealing RCW 48.43.075, 48.43.095, and 48.43.105; and
7 providing an effective date.

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** (1) We, the people of Washington state, find
10 that many state residents cannot buy affordable, comprehensive health
11 insurance, especially in rural areas of the state. Many health plans
12 fail to cover necessary health care, such as maternity care and life-
13 saving medical procedures. Further, when employers make health plans
14 available, many workers cannot afford to pay for these plans out of
15 their own pockets. The lack of affordable, comprehensive health
16 insurance hurts residents and their families by restricting access to
17 necessary health care and draining already limited household budgets.
18 (2) The people of Washington therefore intend by this act to
19 protect the rights of all residents enrolled in health plans and to

1 permit residents, regardless of their health or where they live, to
2 purchase coverage in the Washington health insurance plan. In
3 addition, the people intend by this act to provide low-cost,
4 comprehensive health insurance for state residents by requiring that
5 certain state health care purchasing be consolidated, administered by
6 the health care authority, and modified to reduce costs, increase
7 efficiencies, and maximize available revenues.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW
9 to read as follows:

10 (1) To protect and ensure the rights of enrollees, all carriers and
11 public and private health plans and programs subject to the
12 jurisdiction of the state shall:

13 (a) Disclose information regarding benefits, limitations,
14 exclusions, health care providers and facilities, covered drugs,
15 grievance procedures, and related information prior to and at the time
16 of coverage by the plan or program;

17 (b) Adopt, implement, and disclose policies and procedures
18 governing the collection, use, and disclosure of personally
19 identifiable health information. Such policies and procedures shall
20 conform to rules adopted by the insurance commissioner for the
21 necessary protection of the public's right to privacy consistent with
22 the fair administration of such plans and programs;

23 (c) Adopt and implement a fair method of resolution of disputes
24 with a plan or program and shall afford the right to a timely,
25 independent review of any decision by the plan or program to modify,
26 discontinue, or deny access to or payment for a significant health
27 service;

28 (d) Adopt and implement health care use review standards and
29 clinical protocols with the advice and consent of participating
30 providers and facilities; and

31 (e) Maintain health care networks with a sufficient number and type
32 of health care providers and facilities to ensure enrollees timely
33 access to covered health care services, information, and referrals.

34 (2) A carrier or other insurer and any person acting on its behalf
35 that limits or denies access to or payment for health care services is
36 liable for any harm to the covered person, unless the limitation or
37 denial meets accepted community health care standards.

(3) No carrier or other insurer shall engage in any act or practice that would prevent or limit a person from exercising a right to health care service or coverage under any state or federal law.

(4) A carrier or other insurer is responsible for compliance with the provisions of this chapter and is responsible for the compliance of any person acting on its behalf, at its direction, or under carrier standards or requirements concerning the coverage of, payment for, or provision of health care services.

(5) The insurance commissioner shall adopt rules necessary to implement this section. In adopting such rules the commissioner shall take into consideration the model laws and regulations adopted by the national association of insurance commissioners, standards recommended by national managed care accreditation organizations, and current policies and procedures of state agencies.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05 RCW to read as follows:

There is created the Washington health insurance plan that shall be available state-wide. Effective July 1, 2001, the following programs shall be administered by the Washington health care authority as separate programs under joint procurement and, to the greatest extent possible, joint risk-sharing mechanisms: The public employee benefit plans established under this chapter, the basic health plan established under chapter 70.47 RCW, medicaid programs, state-funded medical assistance, and the children's health insurance program established under chapter 74.09 RCW, Title XIX of the social security act (42 U.S.C. Sec. 1396, et seq.), and Title XXI of the social security act (42 U.S.C. Sec. 1396, et seq.). The plan shall be administered in accordance with the following standards:

(1) All state residents and small employer groups shall be eligible to enroll in the plan in accordance with this act.

(2) State residents and small employer groups enrolling or renewing enrollment in the plan must contract with the plan to pay premiums for a twelve-month period. State residents or small employer groups, who reenroll after terminating coverage without good cause, shall pay a twenty-five percent surcharge on their premiums for one year.

(3) Plan premiums shall be set only with regard to age and family composition. The plan shall prorate the premiums for any medicare

1 supplemental policy on the basis of the actuarial value of the medicare
2 supplemental benefit schedule relative to the plan benefit schedule.

3 (4) The plan may not impose a preexisting waiting period or similar
4 limitations for pregnancy, and may not impose a preexisting waiting
5 period for other conditions that exceed that authorized by chapter
6 48.43 RCW as it existed on July 1, 1999.

7 (5) Plan health services and health service delivery must comply
8 with the requirements of the medicaid programs under chapter 74.09 RCW,
9 Title XIX of the social security act (42 U.S.C. Sec. 1396, et seq.),
10 and chapter 48.43 RCW for all enrollees, and must be at least
11 substantially equivalent to the extent, duration, and scope of health
12 services available through medicaid programs on January 1, 1999.

13 (6) Plan health services must include an option for medicare
14 supplemental health insurance plan which may be offered as a medicare
15 plus choice plan in accordance with Title XVIII of the social security
16 act (42 U.S.C. Sec. 1395, et seq.).

17 (7) The plan shall, to the maximum extent possible, integrate plan
18 health services with other services provided eligible enrollees by the
19 department of social and health services and the department of health.

20 (8) No public employee may be charged more, or receive fewer
21 benefits, as a consequence of this act. Plan premiums and enrollee
22 cost-sharing requirements must be designed to prevent adverse financial
23 impacts upon public employees' benefits. Benefits provided public
24 employees shall be no less than provided under RCW 41.05.065.

25 (9) The Washington health insurance plan board, established in RCW
26 41.05.055, may temporarily suspend enrollment of new private pay small
27 employer groups and new private pay residents who are not enrolling as
28 members of enrolled small employer groups when the board projects that
29 plan premiums will increase by more than twice the implicit price
30 deflator for all items as determined by the office of financial
31 management.

32 (10) Residency verification shall be consistent with the
33 requirements of RCW 74.08.100.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.05 RCW
35 to read as follows:

36 The Washington health care authority shall be the administrator of
37 the Washington health insurance plan effective July 1, 2001. All
38 necessary personnel, facilities, supplies, and other financial and

1 nonfinancial resources to create and operate the Washington health
2 insurance plan shall be derived from existing agencies.

3 (1) The health care authority is hereby granted the powers, duties,
4 and functions of the medical assistance administration under chapter
5 74.09 RCW. All applicable references to the secretary of the
6 department of social and health services in chapter 74.09 RCW shall be
7 construed to mean the administrator of the health care authority.

8 (2) The health care authority shall directly contract with or
9 purchase health care services from health care providers, facilities,
10 local public health agencies, and nonprofit community organizations
11 that serve low-income and underserved populations, and may contract
12 with health carriers, to the extent necessary to provide health
13 services for the benefit of enrollees under the plan.

14 (3) The health care authority shall design reimbursement methods
15 that minimize overutilization of health services and maximize the
16 provision of quality, medically necessary health services. The health
17 care authority shall require any contracted entity, which is
18 transferring to any subcontractor the financial risk for the provision
19 of health services, to obtain guarantees that the subcontractor is
20 financially capable of assuming that risk and capable of complying with
21 the plan's applicable contractual requirements.

22 (4) The health care authority shall calculate a case rate for
23 coverage of pregnancy and social security insurance-related health
24 conditions that would qualify financially eligible enrollees for
25 medicaid programs under chapter 74.09 RCW. The health care authority
26 shall use risk-adjustment methodologies to calculate an actuarially
27 sound case rate for each qualifying condition on the basis of
28 functional status and the average cost for providing health care
29 services necessary to treat those conditions. The health care
30 authority may not include the case rate costs for these conditions when
31 calculating the plan premiums. The health care authority shall charge
32 the medicaid programs, state-funded medical assistance, and the
33 children's health insurance program for the case rate costs incurred by
34 enrollees eligible for those programs. The health care authority shall
35 charge the Washington health insurance plan financial participation
36 program, established in this section, for the case rate costs incurred
37 by enrollees who are not eligible for the medicaid programs, state-
38 funded medical assistance, and the children's health insurance program.

(5) The health care authority shall design and implement an operations plan and the Washington health insurance plan financial participation program that is substantially equivalent to that in RCW 48.41.050 and 48.41.090. All health carriers, the Washington health insurance plan, and all insurers who issue stop loss policies shall participate in the Washington health insurance plan financial participation program. The contribution collected under this section shall be deposited into the Washington health insurance plan account established in section 12 of this act.

(6) The health care authority is authorized and required to maximize, to the greatest extent possible, the availability of federal funding by raising income eligibility standards and certification periods for individual enrollees as permitted by Title XIX of the social security act (42 U.S.C. Sec. 1396, et seq.), and Title XXI of the social security act (42 U.S.C. Sec. 1396, et seq.).

(7) The health care authority shall apply for any waivers under Title XIX of the social security act (42 U.S.C. Sec. 1396, et seq.), and Title XXI of the social security act (42 U.S.C. Sec. 1396, et seq.) necessary for the medicaid programs and the children's health insurance program established under chapter 74.09 RCW to participate in a joint risk-sharing mechanism.

(8) The health care authority shall adopt all rules necessary to implement this act.

(9) The health care authority shall maintain existing bargaining agreements until a new bargaining agreement is negotiated exclusively with agency employees.

(10) The health care authority shall administer the Washington health insurance plan in consultation with the Washington health insurance plan board, established in RCW 41.05.055, in accordance with the health benefit design approved by the board.

Sec. 5. RCW 41.05.055 and 1995 1st sp.s. c 6 s 4 are each amended to read as follows:

(1) (~~((The public employees' benefits))~~) Effective April 1, 2001, the Washington health insurance plan board is created within the authority. The function of the board is to design and approve ((insurance benefit plans for state employees and school district employees)) health insurance benefit design for the enrollees of the Washington health insurance plan.

1 (2) The board shall be composed of nine members appointed by the
2 governor as follows:

3 (a) ~~((Two))~~ Three representatives of state employees, ~~((one))~~ two
4 of whom shall represent an employee union certified as exclusive
5 representative of at least one bargaining unit of classified employees,
6 and one of whom is retired, is covered by a program under the
7 jurisdiction of the board, and represents an organized group of retired
8 public employees;

9 (b) Two representatives of school district employees, one of whom
10 shall represent an association of school employees and one of whom ~~((is~~
11 ~~retired, and represents))~~ shall represent an organized group of retired
12 school employees;

13 ~~((Four members with experience in health benefit management and~~
14 ~~cost containment))~~ Two members who represent nonprofit organizations
15 that advocate on behalf of Washington health insurance plan enrollees
16 who are not public employees; and

17 (d) The administrator and the secretary of health.

18 (3) ~~((The member who represents an association of school employees~~
19 ~~and one member appointed pursuant to subsection (2)(c) of this section~~
20 ~~shall be nonvoting members until such time that there are no less than~~
21 ~~twelve thousand school district employee subscribers enrolled with the~~
22 ~~authority for health care coverage.~~

23 ~~(4))~~ By April 1, 2001, the governor shall appoint the initial
24 members described in subsection (2)(a) through (c) of this section of
25 the board to staggered terms not to exceed four years. Members
26 appointed thereafter shall serve two-year terms. Members of the board
27 shall be compensated in accordance with RCW 43.03.250 and shall be
28 reimbursed for their travel expenses while on official business in
29 accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe
30 rules for the conduct of its business. The administrator shall serve
31 as chair of the board. Meetings of the board shall be at the call of
32 the chair.

33 (4) By May 1, 2001, and whenever the position of the administrator
34 is vacated, the members of the board described in subsection (2)(a)
35 through (c) of this section shall nominate three candidates from among
36 whom the governor shall select an administrator within thirty days. A
37 majority of these board members may recommend that the governor remove
38 an administrator.

Sec. 6. RCW 48.43.005 and 1997 c 231 s 202 and 1997 c 55 s 1 are each reenacted and amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter, chapter 41.05 RCW, and sections 2, 8, and 9 of this act.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(d).

(4) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(5) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(6) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(7) "Course of treatment" may include mere observation or, where appropriate, no treatment at all.

(8) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

~~((+8))~~ (9) "Dependent" means, at a minimum, the enrollee's legal spouse ~~((and))~~, unmarried dependent children, and children of dependent children who qualify for coverage under the enrollee's health benefit plan.

~~((+9))~~ (10) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor,

1 if the self-employed individual, sole proprietor, partner, or
2 independent contractor is included as an employee under a health
3 benefit plan of a small employer, but does not work less than thirty
4 hours per week and derives at least seventy-five percent of his or her
5 income from a trade or business through which he or she has attempted
6 to earn taxable income and for which he or she has filed the
7 appropriate internal revenue service form. Persons covered under a
8 health benefit plan pursuant to the consolidated omnibus budget
9 reconciliation act of 1986 shall not be considered eligible employees
10 for purposes of minimum participation requirements of chapter 265, Laws
11 of 1995.

12 ~~((+10+))~~ (11) "Emergency medical condition" means the emergent and
13 acute onset of a symptom or symptoms, including severe pain, that would
14 lead a prudent layperson acting reasonably to believe that a health
15 condition exists that requires immediate medical attention, if failure
16 to provide medical attention would result in serious impairment to
17 bodily functions or serious dysfunction of a bodily organ or part, or
18 would place the person's health in serious jeopardy.

19 ~~((+11+))~~ (12) "Emergency services" means otherwise covered health
20 care services medically necessary to evaluate and treat an emergency
21 medical condition, provided in a hospital emergency department.

22 ~~((+12+))~~ (13) "Enrollee point-of-service cost-sharing" means
23 amounts paid to health carriers directly providing services, health
24 care providers, or health care facilities by enrollees and may include
25 copayments, coinsurance, or deductibles.

26 ~~((+13+))~~ (14) "Grievance" means a verbal or written complaint
27 submitted by or on behalf of a covered person regarding: (a) Denial of
28 payment for medical services or nonprovision of medical services
29 ~~((included in the covered person's health benefit plan))~~, or (b)
30 service delivery issues other than denial of payment for medical
31 services or nonprovision of medical services, including dissatisfaction
32 with medical care, waiting time for medical services, provider or staff
33 attitude or demeanor, or dissatisfaction with service provided by the
34 health carrier.

35 ~~((+14+))~~ (15) "Health care facility" or "facility" means hospices
36 licensed under chapter 70.127 RCW, hospitals licensed under chapter
37 70.41 RCW, rural health care facilities as defined in RCW 70.175.020,
38 psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes
39 licensed under chapter 18.51 RCW, community mental health centers

1 licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment
2 centers licensed under chapter 70.41 RCW, ambulatory diagnostic,
3 treatment, or surgical facilities licensed under chapter 70.41 RCW,
4 drug and alcohol treatment facilities licensed under chapter 70.96A
5 RCW, and home health agencies licensed under chapter 70.127 RCW, and
6 includes such facilities if owned and operated by a political
7 subdivision or instrumentality of the state and such other facilities
8 as required by federal law and implementing regulations.

9 ~~((+15+))~~ (16) "Health care provider" or "provider" means:

10 (a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to
11 practice health or health-related services or otherwise practicing
12 health care services in this state consistent with state law; or

13 (b) An employee or agent of a person described in (a) of this
14 subsection, acting in the course and scope of his or her employment.

15 ~~((+16+))~~ (17) "Health care service" or "health service" means that
16 service offered or provided by health care facilities and health care
17 providers relating to the prevention, cure, or treatment of illness,
18 injury, or disease.

19 ~~((+17+))~~ (18) "Health carrier" or "carrier" means a disability
20 insurer regulated under chapter 48.20 or 48.21 RCW, a health care
21 service contractor as defined in RCW 48.44.010, or a health maintenance
22 organization as defined in RCW 48.46.020.

23 ~~((+18+))~~ (19) "Health plan" or "health benefit plan" means any
24 policy, contract, or agreement ~~((offered))~~ issued by a health carrier
25 to provide, arrange, reimburse, or pay for health care services except
26 the following:

27 (a) Long-term care insurance governed by chapter 48.84 RCW;

28 (b) Medicare supplemental health insurance governed by chapter
29 48.66 RCW;

30 (c) Limited health care services offered by limited health care
31 service contractors in accordance with RCW 48.44.035;

32 (d) Disability income;

33 (e) Coverage incidental to a property/casualty liability insurance
34 policy such as automobile personal injury protection coverage and
35 homeowner guest medical;

36 (f) Workers' compensation coverage;

37 (g) Accident only coverage;

38 (h) Specified disease and hospital confinement indemnity when
39 marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;
(j) Dental only and vision only coverage; and
(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

~~((+19+))~~ (20) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

~~((+20+))~~ (21) "Medically necessary" means a health service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent worsening of conditions in the enrollee that endanger life, cause suffering or pain, result in an illness or infirmity, threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative, and substantially less costly course of treatment or site of service suitable for the enrollee requesting the service.

(22) "Open enrollment" means the annual sixty-two day period during the months of July and August during which every health carrier offering individual health plan coverage must accept onto individual coverage any state resident within the carrier's service area regardless of health condition who submits an application in accordance with RCW 48.43.035(1).

~~((+21+))~~ (23) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

~~((+22+))~~ (24) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

~~((+23+))~~ (25) "Program" means any medical and health care, pharmaceuticals, and medical equipment purchased with state funds only or state and federal funds by the department of social and health

1 services, the department of health, the basic health plan, the state
2 health care authority, the department of labor and industries, the
3 department of corrections, and local school districts.

4 (26) "Review organization" means a disability insurer regulated
5 under chapter 48.20 or 48.21 RCW, health care service contractor as
6 defined in RCW 48.44.010, or health maintenance organization as defined
7 in RCW 48.46.020, and entities affiliated with, under contract with, or
8 acting on behalf of a health carrier to perform a utilization review.

9 ~~((+24+))~~ (27) "Small employer" means any person, firm, corporation,
10 partnership, association, political subdivision except school
11 districts, or self-employed individual that is actively engaged in
12 business that, on at least fifty percent of its working days during the
13 preceding calendar quarter, employed no more than fifty eligible
14 employees, with a normal work week of thirty or more hours, the
15 majority of whom were employed within this state, and is not formed
16 primarily for purposes of buying health insurance and in which a bona
17 fide employer-employee relationship exists. In determining the number
18 of eligible employees, companies that are affiliated companies, or that
19 are eligible to file a combined tax return for purposes of taxation by
20 this state, shall be considered an employer. Subsequent to the
21 issuance of a health plan to a small employer and for the purpose of
22 determining eligibility, the size of a small employer shall be
23 determined annually. Except as otherwise specifically provided, a
24 small employer shall continue to be considered a small employer until
25 the plan anniversary following the date the small employer no longer
26 meets the requirements of this definition. The term "small employer"
27 includes a self-employed individual or sole proprietor. The term
28 "small employer" also includes a self-employed individual or sole
29 proprietor who derives at least seventy-five percent of his or her
30 income from a trade or business through which the individual or sole
31 proprietor has attempted to earn taxable income and for which he or she
32 has filed the appropriate internal revenue service form 1040, schedule
33 C or F, for the previous taxable year.

34 ~~((+25+))~~ (28) "Utilization review" means the prospective,
35 concurrent, or retrospective assessment of the necessity and
36 appropriateness of the allocation of health care resources and services
37 of a provider or facility, given or proposed to be given to an enrollee
38 or group of enrollees.

1 (~~((26+))~~) (29) "Wellness activity" means an explicit program of an
2 activity consistent with department of health guidelines, such as,
3 smoking cessation, injury and accident prevention, reduction of alcohol
4 misuse, appropriate weight reduction, exercise, automobile and
5 motorcycle safety, blood cholesterol reduction, and nutrition education
6 for the purpose of improving enrollee health status and reducing health
7 service costs.

8 **Sec. 7.** RCW 41.05.011 and 1998 c 341 s 706 are each amended to
9 read as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section shall apply throughout this chapter and sections 8, 9, and
12 13 of this act.

13 (1) "Administrator" means the administrator of the authority.

14 (2) "State purchased health care" or "health care" means medical
15 and health care, pharmaceuticals, and medical equipment purchased with
16 state and federal funds by the department of social and health
17 services, the department of health, the basic health plan, the state
18 health care authority, the department of labor and industries, the
19 department of corrections, the department of veterans affairs, and
20 local school districts.

21 (3) "Authority" means the Washington state health care authority.

22 (4) "Insuring entity" means an insurer as defined in chapter 48.01
23 RCW, a health care service contractor as defined in chapter 48.44 RCW,
24 or a health maintenance organization as defined in chapter 48.46 RCW.

25 (5) "Flexible benefit plan" means a benefit plan that allows
26 employees to choose the level of health care coverage provided and the
27 amount of employee contributions from among a range of choices offered
28 by the authority.

29 (6) "Employee" includes all full-time and career seasonal employees
30 of the state, whether or not covered by civil service; elected and
31 appointed officials of the executive branch of government, including
32 full-time members of boards, commissions, or committees; and includes
33 any or all part-time and temporary employees under the terms and
34 conditions established under this chapter by the authority; justices of
35 the supreme court and judges of the court of appeals and the superior
36 courts; and members of the state legislature or of the legislative
37 authority of any county, city, or town who are elected to office after
38 February 20, 1970. "Employee" also includes: (a) Employees of a

1 county, municipality, or other political subdivision of the state if
2 the legislative authority of the county, municipality, or other
3 political subdivision of the state seeks and receives the approval of
4 the authority to provide any of its insurance programs by contract with
5 the authority, as provided in RCW 41.04.205; (b) employees of employee
6 organizations representing state civil service employees, at the option
7 of each such employee organization, and, effective October 1, 1995,
8 employees of employee organizations currently pooled with employees of
9 school districts for the purpose of purchasing insurance benefits, at
10 the option of each such employee organization; and (c) employees of a
11 school district if the authority agrees to provide any of the school
12 districts' insurance programs by contract with the authority as
13 provided in RCW 28A.400.350.

14 (7) "Board" means the (~~((public employees' benefits))~~) Washington
15 health insurance plan board established under RCW 41.05.055.

16 (8) "Retired or disabled school employee" means:

17 (a) Persons who separated from employment with a school district or
18 educational service district and are receiving a retirement allowance
19 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

20 (b) Persons who separate from employment with a school district or
21 educational service district on or after October 1, 1993, and
22 immediately upon separation receive a retirement allowance under
23 chapter 41.32 or 41.40 RCW;

24 (c) Persons who separate from employment with a school district or
25 educational service district due to a total and permanent disability,
26 and are eligible to receive a deferred retirement allowance under
27 chapter 41.32 or 41.40 RCW.

28 (9) "Small employer group" means the eligible employees and
29 dependents of a small employer, as those terms are described in RCW
30 48.43.005, who are enrolled in the Washington health insurance plan by
31 the small employer.

32 (10) "Benefits contribution plan" means a premium only contribution
33 plan, a medical flexible spending arrangement, or a cafeteria plan
34 whereby state and public employees may agree to a contribution to
35 benefit costs which will allow the employee to participate in benefits
36 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the
37 internal revenue code.

38 ~~((+10+))~~ (11) "Salary" means a state employee's monthly salary or
39 wages.

~~((+11+))~~ (12) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the benefits contribution plan.

~~((+12+))~~ (13) "Plan" means the Washington health insurance plan created in section 3 of this act.

(14) "Plan year" means the time period established by the authority.

~~((+13+))~~ (15) "Private pay" means enrollees in the Washington health insurance plan whose premiums are not paid with state or federal funds.

(16) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(11) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(40) or the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010.

(17) "Stop loss policy" means a policy issued to and for the purposes of insuring the employer, the trustee, or other sponsor of a benefit plan for providing health services, or the benefit plan itself, but not the employees, members, or participants for which payment by the insurer must be made to the employer, the trustee, or other sponsor of the benefit plan or the benefit plan itself, but not to the employees, members, participants, or health care providers; and the policy must contain a provision that establishes an aggregate attaching point or retention that is at the minimum one hundred twenty percent of the expected claims; and the policy may provide for an individual attaching point or retention that is not less than five percent of the expected claims or one hundred thousand dollars, whichever is less.

NEW SECTION. **Sec. 8.** A new section is added to chapter 74.09 RCW to read as follows:

The powers, duties, and functions of the Washington state medical assistance administration are transferred to the Washington health care authority. All applicable references to the secretary of the department of social and health services in this chapter shall be construed to mean the administrator of the health care authority.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.47 RCW
2 to read as follows:

3 The provisions of the basic health plan, as required by this
4 chapter, shall be administered in a manner consistent with this act.

5 NEW SECTION. **Sec. 10.** (1) By January 1, 2001, the governor must
6 submit to the legislature all necessary legislation for all technical
7 changes required to fully reflect this act in statute and all budget
8 recommendations necessary to accomplish the purpose and intent of this
9 act.

10 (2) By January 1, 2002, the legislature shall conduct a study to
11 determine whether the Washington state health insurance pool
12 established in chapter 48.41 RCW should have its powers, duties, and
13 functions transferred to the plan.

14 NEW SECTION. **Sec. 11.** A new section is added to chapter 74.09 RCW
15 to read as follows:

16 The Washington health insurance plan shall be funded through
17 private pay premiums, state funds, and contributions to the Washington
18 health insurance plan financial participation program as described by
19 section 4 of this act. The state shall fully fund its fiscal
20 responsibilities under this act, including the funding required to
21 maximize federal funding participation and plan administrative costs
22 for enrollees eligible under the public employee benefit plans
23 established under chapter 41.05 RCW, the basic health plan established
24 under chapter 70.47 RCW, medicaid programs, state-funded medical
25 assistance, and the children's health insurance program established
26 under this chapter for coverage in the Washington health insurance
27 plan. Additional public funds which may be necessary to implement the
28 Washington health insurance plan shall be supplemented through
29 increases in the tobacco tax as authorized under chapters 82.24 and
30 82.26 RCW, any tobacco settlement funds, the maximizing of federal
31 funds available based on the income of an enrollee, and efficiencies in
32 the purchasing and administration of all state health programs under
33 the Washington health insurance plan. All funds necessary to implement
34 this act and to administer and maintain the Washington health insurance
35 plan shall be transferred from the state general fund to the Washington
36 health insurance plan account established in section 12 of this act.

NEW SECTION. **Sec. 12.** A new section is added to chapter 41.05 RCW to read as follows:

The Washington health insurance plan account is created in the state treasury. Any funds collected for the Washington health insurance plan shall be deposited in the Washington health insurance plan account. Moneys in the account shall be used exclusively for the purposes of this act, including payments of costs of administering the plan.

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.135 RCW to read as follows:

(1) Initiative Measure No. 601 (this chapter and the amendatory changes enacted by section 6, chapter 2, Laws of 1994) is hereby reenacted and reaffirmed. The legislature also adopts this act to continue the general fund revenue and expenditure limitations contained in this chapter after this one-time transfer of funds.

(2) RCW 43.135.035 does not apply to RCW 41.05.011, 41.05.055, and sections 3, 4, 8, and 10 through 12 of this act.

NEW SECTION. **Sec. 14.** A new section is added to chapter 43.135 RCW to read as follows:

Any provision of this act and any tax increase, including, but not limited to, a new tax, a monetary increase in an existing tax, a tax rate increase, an expansion in the legal definition of a tax base, and an extension of an expiring tax that funds any requirement of this act shall be exempt from chapter 1, Laws of 2000 (Initiative Measure No. 695).

NEW SECTION. **Sec. 15.** Nothing in this act shall be deemed to impair a contract in existence on the effective date of this section.

NEW SECTION. **Sec. 16.** The following acts or parts of acts are each repealed:

(1) RCW 48.43.075 (Informing patients about their care--Health carriers may not preclude or discourage) and 1996 c 312 s 2;

(2) RCW 48.43.095 (Information provided to an enrollee or a prospective enrollee) and 1996 c 312 s 4; and

(3) RCW 48.43.105 (Preparation of documents that compare health carriers--Immunity--Due diligence) and 1996 c 312 s 5.

1 NEW SECTION. **Sec. 17.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 18.** This act may be known and cited as the
6 patient protection and health care access act.

7 NEW SECTION. **Sec. 19.** Sections 4 and 5 of this act take effect
8 July 1, 2001.

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